

From: Michele Marquardt <Michele@dementandmarquardt.com>
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Subject: ADM File No. 2013-29

Clerk of the Michigan Supreme Court

P.O. Box 30052
Lansing, MI 48909

Re: PROBATE COUNCIL COMMENTS TO PROPOSED CHANGES TO
MCR 5.125, ADM 2013-29

Dear Sir or Madam:

As chair of the Probate Court Rules, Procedures and Forms Committee (the "Committee") of the Probate Council for the State Bar of Michigan, I submit the following comment to the proposed amendment to MCR 5.125 for consideration and adoption by the Michigan Supreme Court.

Specifically, the Committee focused on MCR 5.125 (6). This section of the court rule entails a list of interested persons in a proceeding for examination or approval of an account of fiduciary. With regard to claimants, the proposed language reads as follows:

"(6) The persons interested in a proceeding for examination or approval of an account of a fiduciary are:....

.....(h) in all matters described in this subsection (6), claimants, and

(i) in all matters described in this subsection (6), any person whose interests would be adversely affected by the relief requested, including an insurer or surety who might be subject to financial obligations as the result of the approval of the account, or a claimant."

Upon discussion, the Committee was unable to determine a compelling reason for including a reference to claimants under both subsections (h) and (i). Notice seems critical to any claimant whose interest might be adversely affected, but for claimants who have been satisfied or who will not be adversely affected, notice does not seem critical.

Therefore, in accordance with direction by the Probate Council, the Committee recommends deletion of proposed section 5.125 (6)(h) completely, and a new (6)(i) re-written as follows:

"in all matters described in this subsection (6), any person whose interests would be adversely affected by the relief requested, including a claimant or an insurer or surety who might be subject to financial obligations as the result of the approval of the account."

On behalf of the Committee and Probate Council, I request the opportunity to speak in favor of our proposed changes at the public hearing. Thank you for your consideration.

Very truly yours,

Michele C. Marquardt (P39165)

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